

103D CONGRESS
1ST SESSION

S. 176

To amend title XVIII of the Social Security Act with respect to essential access community hospitals, the rural transition grant program, regional referral centers, medicare-dependent small rural hospitals, interpretation of electrocardiograms, payments for new physicians and practitioners, prohibitions on carrier forum shopping, treatment of nebulizers and aspirators, and rural hospital demonstrations.

IN THE SENATE OF THE UNITED STATES

JANUARY 21 (legislative day, JANUARY 5), 1993

Mr. DOLE (for himself, Mr. McCAIN, Mr. DANFORTH, Mr. GRASSLEY, Mr. DURENBERGER, Mrs. KASSEBAUM, Mr. CRAIG, Mr. NICKLES, Mr. JEFFORDS, Mr. BOND, Mr. PACKWOOD, Mr. BURNS, Mr. McCONNELL, Mr. WALLOP, Mr. SHELBY, Mr. BOREN, and Mr. BAUCUS) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act with respect to essential access community hospitals, the rural transition grant program, regional referral centers, medicare-dependent small rural hospitals, interpretation of electrocardiograms, payments for new physicians and practitioners, prohibitions on carrier forum shopping, treatment of nebulizers and aspirators, and rural hospital demonstrations.

1 *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; REFERENCES IN ACT.**2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Medicare Amendments of 1993”.4 (b) **REFERENCES IN ACT.**—Except as otherwise spe-
5 cifically provided, whenever in this Act, an amendment is
6 expressed in terms of an amendment to or repeal of a sec-
7 tion or other provision, the reference shall be considered
8 to be made to that section or other provision of the Social
9 Security Act.10 **SEC. 2. ESSENTIAL ACCESS COMMUNITY HOSPITAL (EACH)**
11 **AMENDMENTS.**12 (a) **INCREASING NUMBER OF PARTICIPATING**
13 **STATES.**—Section 1820(a)(1) (42 U.S.C. 1395i-4(a)(1))
14 is amended by striking “7” and inserting “9”.15 (b) **TREATMENT OF INPATIENT HOSPITAL SERVICES**
16 **PROVIDED IN RURAL PRIMARY CARE HOSPITALS.**—17 (1) **IN GENERAL.**—Section 1820(f)(1)(F) (42
18 U.S.C. 1395i-4(f)(1)(F)) is amended to read as fol-
19 lows:20 “(F) subject to paragraph (4), provides not
21 more than 6 inpatient beds (meeting such con-
22 ditions as the Secretary may establish) for pro-
23 viding inpatient care to patients requiring sta-
24 bilization before discharge or transfer to a hos-
25 pital, except that the facility may not provide
26 any inpatient hospital services—

1 “(i) to any patient whose attending
2 physician does not certify that the patient
3 may reasonably be expected to be dis-
4 charged or transferred to a hospital within
5 72 hours of admission to the facility; or

6 “(ii) consisting of surgery or any
7 other service requiring the use of general
8 anesthesia (other than surgical procedures
9 specified by the Secretary under section
10 1833(i)(1)(A)), unless the attending physi-
11 cian certifies that the risk associated with
12 transferring the patient to a hospital for
13 such services outweighs the benefits of
14 transferring the patient to a hospital for
15 such services.”.

16 (2) LIMITATION ON AVERAGE LENGTH OF
17 STAY.—Section 1820(f) (42 U.S.C. 1395i-4(f)) is
18 amended by adding at the end the following new
19 paragraph:

20 “(4) LIMITATION ON AVERAGE LENGTH OF IN-
21 PATIENT STAYS.—The Secretary may terminate a
22 designation of a rural primary care hospital under
23 paragraph (1) if the Secretary finds that the average
24 length of stay for inpatients at the facility during
25 the previous year in which the designation was in ef-

1 fect exceeded 72 hours. In determining the compli-
2 ance of a facility with the requirement of the pre-
3 vious sentence, there shall not be taken into account
4 periods of stay of inpatients in excess of 72 hours
5 to the extent such periods exceed 72 hours because
6 transfer to a hospital is precluded because of inclem-
7 ent weather or other emergency conditions.”.

15 (4) GAO REPORTS.—Not later than 2 years
16 after the date of the enactment of this Act, the
17 Comptroller General shall submit reports to the Con-
18 gress on—

19 (A) the application of the requirements
20 under section 1820(f) of the Social Security Act
21 (as amended by this subsection) that rural pri-
22 mary care hospitals provide inpatient care only
23 to those individuals whose attending physicians
24 certify may reasonably be expected to be dis-
25 charged within 72 hours after admission and

1 maintain an average length of inpatient stay
2 during a year that does not exceed 72 hours;
3 and

4 (B) the extent to which such requirements
5 have resulted in such hospitals providing inpa-
6 tient care beyond their capabilities or have lim-
7 ited the ability of such hospitals to provide
8 needed services.

9 (c) DESIGNATION OF HOSPITALS.—

10 (1) PERMITTING DESIGNATION OF HOSPITALS
11 LOCATED IN URBAN AREAS.—

12 (A) IN GENERAL.—Section 1820 (42
13 U.S.C. 1395i-4) is amended—

14 (i) by striking paragraph (1) of sub-
15 section (e) and redesignating paragraphs
16 (2) through (6) as paragraphs (1) through
17 (5);

18 (ii) in subsection (e)(1)(A) (as redes-
19 ignated by subparagraph (A))—

20 (I) by striking “is located” and
21 inserting “except in the case of a hos-
22 pital located in an urban area, is lo-
23 cated”

24 (II) by striking “, (ii)” and in-
25 serting “or (ii)”, and

(III) by striking “or (iii)” and all that follows through “section,”; and (iii) in subsection (i)(1)(B), by striking “paragraph (3)” and inserting “paragraph (2).”

(B) NO CHANGE IN MEDICARE PROSPECTIVE PAYMENT.—Section 1886(d)(5)(D) (42 U.S.C. 1395ww(d)(5)(D)) is amended—

9 (i) in clause (iii)(III), by inserting “lo-
10 cated in a rural area and” after “that is”,
11 and

12 (ii) in clause (v), by inserting “located
13 in a rural area and” after “in the case of
14 a hospital”.

15 (2) PERMITTING HOSPITALS LOCATED IN AD-
16 JOINING STATES TO PARTICIPATE IN STATE PRO-
17 GRAM.—

18 (A) IN GENERAL.—Section 1820 (42
19 U.S.C. 1395i-4) is amended—

20 (i) by redesignating subsection (k) as
21 subsection (l); and

22 (ii) by inserting after subsection (j)
23 the following new subsection:

1 “(k) ELIGIBILITY OF HOSPITALS NOT LOCATED IN
2 PARTICIPATING STATES.—Notwithstanding any other
3 provision of this section—

4 “(1) for purposes of including a hospital or fa-
5 cility as a member institution of a rural health net-
6 work, a State may designate a hospital or facility
7 that is not located in the State as an essential access
8 community hospital or a rural primary care hospital
9 if the hospital or facility is located in an adjoining
10 State and is otherwise eligible for designation as
11 such a hospital;

12 “(2) the Secretary may designate a hospital or
13 facility that is not located in a State receiving a
14 grant under subsection (a)(1) as an essential access
15 community hospital or a rural primary care hospital
16 if the hospital or facility is a member institution of
17 a rural health network of a State receiving a grant
18 under such subsection; and

19 “(3) a hospital or facility designated pursuant
20 to this subsection shall be eligible to receive a grant
21 under subsection (a)(2).”.

22 (B) CONFORMING AMENDMENTS.—(i) Sec-
23 tion 1820(c)(1) (42 U.S.C. 1395i-4(c)(1)) is
24 amended by striking “paragraph (3)” and in-
25 inserting “paragraph (3) or subsection (k)”.

4 (I) in clause (i), by striking “(a)(1)”
5 and inserting “(a)(1) (except as provided
6 in subsection (k))”, and

7 (II) in clause (ii), by striking “sub-
8 paragraph (B)” and inserting “subpara-
9 graph (B) or subsection (k)”.

10 (d) SKILLED NURSING SERVICES IN RURAL PRIMARY
11 CARE HOSPITALS.—Section 1820(f)(3) (42 U.S.C. 1395i-
12 4(f)(3)) is amended by striking “because the facility” and
13 all that follows and inserting the following: “because, at
14 the time the facility applies to the State for designation
15 as a rural primary care hospital, there is in effect an
16 agreement between the facility and the Secretary under
17 section 1883 under which the facility’s inpatient hospital
18 facilities are used for the furnishing of extended care serv-
19 ices, except that the number of beds used for the furnish-
20 ing of such services may not exceed the total number of
21 licensed inpatient beds at the time the facility applies to
22 the State for such designation (minus the number of inpa-
23 tient beds used for providing inpatient care pursuant to
24 paragraph (1)(F)). For purposes of the previous sentence,
25 the number of beds of the facility used for the furnishing

1 of extended care services shall not include any beds of a
2 unit of the facility that is licensed as a distinct-part skilled
3 nursing facility at the time the facility applies to the State
4 for designation as a rural primary care hospital.”.

5 (e) PAYMENT FOR OUTPATIENT RURAL PRIMARY
6 CARE HOSPITAL SERVICES.—Section 1834(g)(1) (42
7 U.S.C. 1395m(g)(1)) is amended by adding at the end the
8 following:

9 “The amount of payment shall be determined under
10 either method without regard to the amount of the
11 customary or other charge.”.

12 (f) CLARIFICATION OF PHYSICIAN STAFFING RE-
13 QUIREMENT FOR RURAL PRIMARY CARE HOSPITALS.—
14 Section 1820(f)(1)(H) (42 U.S.C. 1395i-4(f)(1)(H)) is
15 amended by striking the period and inserting the follow-
16 ing: “, except that in determining whether a facility meets
17 the requirements of this subparagraph, subparagraphs (E)
18 and (F) of that paragraph shall be applied as if any ref-
19 erence to a ‘physician’ is a reference to a physician as de-
20 fined in section 1861(r)(1).”.

21 (g) TECHNICAL AMENDMENTS RELATING TO PART
22 A DEDUCTIBLE, COINSURANCE, AND SPELL OF ILL-
23 NESS.—(1) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1))
24 is amended—

5 (B) by striking “inpatient hospital services” the
6 second place it appears and inserting “such serv-
7 ices”; and

8 (C) by striking “and inpatient rural primary
9 care hospital services”.

10 (2) Sections 1813(a) and 1813(b)(3)(A) (42 U.S.C.
11 1395e(a), 1395e(b)(3)(A)) are each amended by striking
12 “inpatient hospital services” each place it appears and in-
13 serting “inpatient hospital services or inpatient rural pri-
14 mary care hospital services”.

15 (3) Section 1813(b)(3)(B) (42 U.S.C.
16 1395e(b)(3)(B)) is amended by striking “inpatient hos-
17 pital services” and inserting “inpatient hospital services,
18 inpatient rural primary care hospital services”.

19 (4) Section 1861(a) (42 U.S.C. 1395x(a)) is
20 amended—

(B) in paragraph (2), by striking “hospital” and inserting “hospital or rural primary care hospital”.

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 0(l) (42 U.S.C. 1395i-4(l)), as redesignated by subsection (c)(2), is amended by striking “1990, 1991, and 2” and inserting “1990 through 1995”.

(i) EFFECTIVE DATE.—The amendments made by section shall take effect on the date of the enactment of this Act.

AUTHORIZATION OF RURAL TRANSITION GRANT PROGRAM.

Section 4005(e)(9) of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203) is amended by striking “1992” and inserting “1992 and \$30,000,000 for each of fiscal years 1993 through 1997”.

2.4. REGIONAL REFERRAL CENTERS.

(a) EXTENSION THROUGH FISCAL YEAR 1994.—

(1) IN GENERAL.—Section 6003(d) of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 1395ww note) is amended by striking “October 1, 1992” and inserting “October 1, 1994”.

(2) PAYMENT ADJUSTMENT.—

(A) IN GENERAL.—In the case of a hospital which would have retained its status as a

1 regional referral center during the period de-
2 scribed in subparagraph (B) if the amendments
3 made by paragraph (1) had been included in
4 the enactment of section 6003(d) of the Omni-
5 bus Budget Reconciliation Act of 1989 (42
6 U.S.C. 1395ww note), the Secretary of Health
7 and Human Services shall make a lump sum
8 payment to such hospital based on the dif-
9 ference between the aggregate payments (ex-
10 cluding outlier payments) such hospital would
11 have received during such period if such hos-
12 pital was classified as a regional referral center
13 during such period and the aggregate payments
14 (excluding outlier payments) such hospital actu-
15 ally received during such period.

16 (B) DEFINITION.—The period described in
17 this subparagraph is the period beginning the
18 day after the last day a hospital was classified
19 as a regional referral center under section
20 6003(d) of the Omnibus Budget Reconciliation
21 Act of 1989 (42 U.S.C. 1395ww note) and end-
22 ing on the date of the enactment of the amend-
23 ments made by paragraph (1)

24 (b) PERMITTING HOSPITALS TO DECLINE RECLAS-
25 FICATION.—

(1) IN GENERAL.—If any hospital fails to qualify as a rural referral center under section 1886(d)(5)(C) of the Social Security Act as a result of a decision by the Medicare Geographic Classification Review Board under section 1886(d)(10) of such Act to reclassify the hospital as being located in an urban area for fiscal year 1993, the Secretary of Health and Human Services shall—

(A) notify such hospital of such failure to qualify,

(B) provide an opportunity for such hospital to decline such reclassification, and

(C) if the hospital declines such reclassification, administer the Social Security Act (other than section 1886(d)(8)(D) of such Act) for fiscal year 1993 as if the decision by the Review Board had not occurred.

(2) PAYMENT ADJUSTMENT.—In the case of a hospital which declines a reclassification under paragraph (1)(C), the Secretary of Health and Human Services shall make a lump sum payment to such hospital for any period in which such hospital was reclassified under section 1886(d)(10) of the Social Security Act based on the difference between the aggregate payments (excluding outlier payments) such

1 hospital would have received during such period if
2 such hospital was classified as a regional referral
3 center during such period and the aggregate pay-
4 ments (excluding outlier payments) such hospital ac-
5 tually received during such period.

6 **SEC. 5. MEDICARE-DEPENDENT, SMALL RURAL HOSPITALS.**

7 (a) IN GENERAL.—Section 1886(d)(5)(G) of the So-
8 cial Security Act (42 U.S.C. 1395ww(d)(5)(G)) is
9 amended—

10 (1) by amending clause (i) to read as follows:
11 “(i) In the case of a subsection (d) hospital which
12 is a medicare-dependent, small rural hospital, payment
13 under paragraph (1)(A) for discharges occurring before
14 October 1, 1994, shall be—

15 “(I) for any cost reporting period beginning on
16 or after April 1, 1990, and ending before March 31,
17 1994, the amount determined under clause (ii); and

18 “(II) for any cost reporting period beginning on
19 or after April 1, 1993, the amount determined under
20 clause (ii) by substituting ‘50 percent’ for ‘100 per-
21 cent’.”,

22 (2) by redesignating clauses (ii) and (iii), as
23 clauses (iii) and (iv), respectively, and

24 (3) by inserting after clause (i) the following
25 new clause:

1 “(ii) The amount determined under this clause is the
2 sum of—

3 “(I) the amount determined under paragraph
4 (1)(A)(iii), and

5 “(II) 100 percent of the excess (if any) of—

6 “(aa) the hospital’s target amount for the
7 cost reporting period, as defined in subsection
8 (b)(3)(D), over

9 “(bb) the amount determined under para-
10 graph (1)(A)(iii).”.

11 (b) PERMITTING HOSPITALS TO DECLINE RECLASSI-
12 FICATION.—

13 (1) IN GENERAL.—If any hospital fails to qual-
14 ify as a medicare-dependent, small rural hospital
15 under section 1886(d)(5)(G)(i) of the Social Security
16 Act as a result of a decision by the Medicare Geo-
17 graphic Classification Review Board under section
18 1886(d)(10) of such Act to reclassify the hospital as
19 being located in an urban area for fiscal year 1993,
20 the Secretary of Health and Human Services shall—

21 (A) notify such hospital of such failure to
22 qualify,

23 (B) provide an opportunity for such hos-
24 pital to decline such reclassification, and

(2) PAYMENT ADJUSTMENT.—In the case of a hospital which declines a reclassification under paragraph (1)(C), the Secretary of Health and Human Services shall make a lump sum payment to such hospital for any period in which such hospital was reclassified under section 1886(d)(10) of the Social Security Act based on the difference between the aggregate payments (excluding outlier payments) such hospital would have received during such period if such hospital was classified as a medicare-dependent, small rural hospital during such period and the aggregate payments (excluding outlier payments) such hospital actually received during such period.

19 SEC. 6. SEPARATE PAYMENT FOR INTERPRETATION OF
20 ELECTROCARDIOGRAMS.

21 (a) IN GENERAL.—Paragraph (3) of section 1848(b)
22 (42 U.S.C. 1395w-4(b)) is amended to read as follows:
23 “(3) TREATMENT OF INTERPRETATION OF
24 ELECTROCARDIOGRAMS.—The Secretary—

1 “(A) shall make separate payment under
2 this section for the interpretation of electro-
3 cardiograms performed or ordered to be per-
4 formed as part of or in conjunction with a visit
5 to or a consultation with a physician, and

6 “(B) shall adjust the relative values estab-
7 lished for visits and consultations under sub-
8 section (c) so as not to include relative value
9 units for interpretations of electrocardiograms
10 in the relative value for visits and
11 consultations.”.

12 (b) **ASSURING BUDGET NEUTRALITY.**—Section
13 1848(c)(2) (42 U.S.C. 1395w-4(c)(2)) is amended by add-
14 ing at the end the following new subparagraph:

15 “(E) **BUDGET NEUTRALITY ADJUST-
16 MENTS.**—The Secretary—

17 “(i) shall reduce the relative values
18 for all services (other than anesthesia serv-
19 ices) established under this paragraph
20 (and, in the case of anesthesia services, the
21 conversion factor established by the Sec-
22 etary for such services) by such percent-
23 age as the Secretary determines to be nec-
24 essary so that, beginning in 1996, the
25 amendment made by section 6(a) of the

1 Medicare Amendments of 1993 would not
2 result in expenditures under this section
3 that exceed the amount of such expendi-
4 tures that would have been made if such
5 amendment had not been made, and

18 (c) CONFORMING AMENDMENTS.—Section 1848 (42
19 U.S.C. 1395w-4) is amended—

20 (1) in subsection (a)(2)(B)(i)(I), by inserting
21 “and as adjusted under subsection (c)(2)(E)(ii)”
22 after “for 1993”;

4 (d) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to services furnished on or after
6 January 1, 1993.

7 SEC. 7. PAYMENTS FOR NEW PHYSICIANS AND PRACTITION-
8 ERS.

9 (a) EQUAL TREATMENT OF NEW PHYSICIANS AND
10 PRACTITIONERS.—(1) Section 1848(a) (42 U.S.C.
11 1395w-4(a)) is amended by striking paragraph (4).

12 (2) Section 1842(b)(4) (42 U.S.C. 1395u(b)(4)) is
13 amended by striking subparagraph (F).

14 (b) BUDGET NEUTRALITY ADJUSTMENT.—Notwith-
15 standing any other provision of law, the Secretary of
16 Health and Human Services shall reduce the following val-
17 ues and amounts for 1993 (to be applied for that year
18 and subsequent years) by such uniform percentage as the
19 Secretary determines to be required to assure that the
20 amendments made by subsection (a) will not result in ex-
21 penditures under part B of title XVIII of the Social Secu-
22 rity Act in 1993 that exceed the amount of such expendi-
23 tures that would have been made if such amendments had
24 not been made:

6 (2) The amounts determined under section
7 1848(a)(2)(B)(i)(I) of such Act.

13 (c) CONFORMING AMENDMENTS.—Section 1848 (42
14 U.S.C. 1395w–4), as amended by section 6(c) of this sub-
15 title, is amended—

22 (3) in subsection (i)(1)(B), by inserting “and
23 section 7(b) of the Medicare Amendments of 1993”
24 after “under subsection (c)(2)(E)”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 subsection (a) shall apply to services furnished on or after
3 January 1, 1993.

4 **SEC. 8. PROHIBITION AGAINST CARRIER FORUM SHOP-**
5 **PING.**

6 (a) IN GENERAL.—Section 1834(a)(12) (42 U.S.C.
7 1395m(a)(12)) is amended to read as follows:

8 “(12) USE OF CARRIERS TO PROCESS
9 CLAIMS.—

10 “(A) DESIGNATION OF REGIONAL CARRIERS.—The Secretary may designate, by regulation under section 1842, one carrier for one or more entire regions to process all claims within the region for covered items under this section.

11 “(B) PROHIBITION AGAINST CARRIER
12 SHOPPING.—(i) No supplier of a covered item
13 may present or cause to be presented a claim
14 for payment under this part unless such claim
15 is presented to the appropriate carrier.

16 “(ii) For purposes of clause (i), the term
17 ‘appropriate carrier’ means the carrier having
18 jurisdiction over the geographic area that includes
19 the permanent residence of the patient to
20 whom the item is furnished.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply to items furnished on or after
3 July 1, 1993.

4 (c) CLARIFICATION OF AUTHORITY TO DESIGNATE
5 CARRIERS FOR OTHER ITEMS AND SERVICES.—Nothing
6 in this subsection or the amendment made by this sub-
7 section may be construed to restrict the authority of the
8 Secretary of Health and Human Services to designate re-
9 gional carriers or modify claims jurisdiction rules with re-
10 spect to items or services under part B of the medicare
11 program that are not covered items under section 1834(a)
12 of the Social Security Act or prosthetic devices or orthotics
13 and prosthetics under section 1834(h) of such Act.

14 **SEC. 9. TREATMENT OF NEBULIZERS AND ASPIRATORS.**

15 (a) IN GENERAL.—Section 1834(a)(3)(A) (42 U.S.C.
16 1395m(a)(3)(A)) is amended by striking “ventilators, as-
17 pirators, IPPB machines, and nebulizers” and inserting
18 “ventilators and IPPB machines”.

19 (b) PAYMENT FOR ACCESSORIES RELATING TO
20 NEBULIZERS AND ASPIRATORS.—Section 1834(a) (42
21 U.S.C. 1395m(a)) is amended by inserting after para-
22 graph (14) the following new paragraph:

23 “(15) PAYMENT FOR ACCESSORIES RELATING
24 TO NEBULIZERS AND ASPIRATORS.—In the case of
25 accessories to be used in conjunction with a

1 nebulizer or aspirator for which payment is made
2 under this subsection, payment shall be made in ac-
3 cordance with paragraph (2) of this subsection.”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to items furnished on or after Jan-
6 uary 1, 1993.

7 **SEC. 10. EXTENSION OF RURAL HOSPITAL DEMONSTRA-**
8 **TION.**

9 Section 4008(i)(1) of the Omnibus Budget Reconcili-
10 ation Act of 1990 is amended by adding at the end the
11 following new sentence: “The Secretary shall continue any
12 such demonstration project until at least December 31,
13 1995.”.

O

CMS LIBRARY



3 8095 00017821 6